

California Regional Water Quality Control Board  
North Coast Region

Complaint No. R1-2003-0098

For

Administrative Civil Liability

In the Matter of

City of Willits  
Solid Waste Disposal Site  
Berry Canyon Road  
Willits, CA

For

Failing to File an Annual Storm Water Report  
for Fiscal Year 2001-2002 in a Timely Manner

Mendocino County

The Executive Officer of the California Regional Water Quality Control Board, North Coast Region (hereinafter Regional Water Board), hereby gives notice that:

1. The City of Willits (hereinafter the Discharger) operates the Willits Solid Waste Disposal Site, a waste disposal facility located on Berry Canyon Road, in Willits, California (hereinafter Facility).
2. The U.S. Environmental Protection Agency issued regulations for storm water discharges on November 16, 1990. Subsequently, the State Water Resources Control Board (State Water Board) adopted Water Quality Order No. 91-013-DWQ, National Pollutant Discharge Elimination System (NPDES) General Permit No CAS000001, Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities Excluding Construction Activities (hereinafter General Permit). On September 17, 1992, the State Water Board amended the General Permit, and on August 17, 1997, the State Water Board issued Order No. 97-03-DWQ, which revised and replaced the General Permit.
3. Provision E(1) of the General Permit requires that all facility operators seeking coverage under the General Permit file a Notice of Intent (NOI) for each of the facilities they operate. The City of Willits filed a NOI for the Willits Solid Waste Disposal Site on April 6, 1992, and was assigned WDID No. 1 23S003698 for the operation.

4. Provision E(3) and Section B(14) of the General Permit require that all facility operators submit an Annual Report by July 1 of each year to the Executive Officer of the Regional Water Board responsible for the area in which the facility is located.
5. The Discharger failed to submit its 2001-2002 Annual Report for the Facility by July 1, 2002.
6. California Water Code (CWC) Section 13399.31(b) requires Regional Water Boards to notify dischargers who have failed to submit Annual Reports that they are in noncompliance. Should a discharger who is notified, pursuant to Section 13399.31(b), fail to submit an Annual Report within 30-days of notification, Section 13399.31(c) requires that the Regional Water Board's Executive Officer send a second notice to that discharger.
7. On September 9, 2002, the Executive Officer issued the first Notice of Non-Compliance to the Discharger related to the failure to submit the 2001-2002 Annual Report. The Discharger did not respond to this Notice. On November 22, 2002, the Executive Officer issued the second Notice of Non-Compliance letter to the Discharger.
8. CWC Section 13399.31(d) states that if a discharger fails to submit an Annual Report within 60-days from the date on which the second notice is sent, the Regional Water Board shall impose penalties, as described in CWC Section 13399.33(c). Section 13399.33(c) states that for a person who fails to submit an Annual Report in accordance with Section 13399.31, civil liability in an amount of not less than one thousand dollars (\$1,000) shall be imposed.
9. The Discharger did not submit the 2001-2002 Annual Report for the facility until February 14, 2003, 84 days after issuance of the second notice. Because the Annual Report was submitted more than 60-days after the second notice, the City is subject to civil liability pursuant to CWC Section 13399.31(d) and 13399.33 of the Storm Water Enforcement Act of 1998.
10. Unless waived, a hearing on this matter will be held before the Regional Water Board on September 24, 2003 at 5550 Skylane Boulevard, Suite A, Santa Rosa, California. At this hearing, the Discharger, or representative(s) will have an opportunity to address and contest the allegations in the Complaint and the imposition of civil liabilities before the Regional Water Board.
11. At the hearing the Regional Water Board will consider whether to affirm, reject, or modify the proposed civil liability, to refer the matter to the Attorney General for recovery of judicial liability, or to take other enforcement actions.

12. The issuance of a Complaint for Administrative Civil Liability does not have the potential to result in a physical change in the environment and is therefore not a “project” subject to the California Environmental Quality Act (CEQA) (Public Resources Code Section 21000 et seq.) pursuant to Title 14, California Code of Regulations, Section 15060(c). The issuance of the Complaint is also an enforcement action and is exempt from CEQA pursuant to Title 14, California Code of Regulations, Section 15321(a)(2).
13. A settlement of this Complaint will not become effective until after a 30-day public comment period.

### **PROPOSED CIVIL LIABILITY**

Based on the foregoing, I hereby propose that the City of Willits pay an Administrative Civil Liability in the amount of \$1,000.00.

### **Waiver of Hearing**

The City of Willits may waive the right to a future hearing, if it so chooses, by signing the enclosed Waiver and returning it together with a cashier’s check or money order, made payable to the “State Water Resources Control Board,” for the amount of the proposed civil liability, within 30 days of receipt of this Complaint. Waiver and check should be submitted to the California Regional Water Quality Control Board, North Coast Region, 5550 Skylane Boulevard, Suite A, Santa Rosa, CA 95403.

Ordered by: \_\_\_\_\_

Susan A. Warner  
Executive Officer

August 7, 2003